

**SCHEDULE 26**  
**DATE DD MMM YYYY**  
**TO BE FINALISED BY DIO ON BEHALF OF THE AUTHORITY**

**(1) THE SECRETARY OF STATE FOR DEFENCE**

**(2) XXXXXXXXXXXXXXXXXXXX**

**Licence to Occupy**

of

[Premises]



**Defence  
Infrastructure  
Organisation**

DATE:  
2011

Authority: **THE SECRETARY OF STATE FOR DEFENCE** for and on behalf of Her Majesty care of Defence Infrastructure, Organisation, Building 1/150 Murray's Lane (PP19D), HM Naval Base, Portsmouth, PO1 3NJ.

Contractor: **XXXXXXXXXXXX** (Company number XXXXXXXX) whose registered office is at XXXXXXXXXXXXXXXXXXXXXXXX.

## 1. INTERPRETATION

### 1.1 Definitions

In this Licence (unless the context requires otherwise) the following words and expressions shall have the following meanings:

<b>Term</b>	<b>Definition</b>
Authority Obligations	Means the Authority Obligations for the Premises specifically listed in part 6 of the Contract (Land Issues);
Authority Party	Means any agent, employee, contractor or licensee of the Authority not being the Contractor;
Authority Property	Has the meaning set out in the Contract;
Authority's Representative	Has the meaning set out in the Contract;
Common Parts	Means those parts of the Establishment intended for common use and so designated by the Authority from time to time and/or the use of which is required by the Contractor and agreed with the Authority to enable it to perform its obligations under the Contract;
Conduits	Means conducting media, tanks and apparatus used in connection with them;
Contract	Means the commercial contract reference FLEET/00428

made between the Authority (1) and the Contractor (2) for the provision of Training Services to Navy Command dated [        ];

Contract Period	Has the meaning set out in the Contract;
Crown Body	Means the Authority, or any Minister of the Crown, Government Department, or body, or person or agency carrying out functions on behalf of the Crown;
Crown Period	Means any period during which the reversion immediately expectant on the termination of the Licence Period is vested in a Crown Body;
Establishment	Means HMS Collingwood, HMS Raleigh, HMS Excellent, Britannia Royal Naval College, the Defence Diving School and any associated outstations as set out in Contract Schedule 2 (Statement of Requirements);
Expiry Date	Has the meaning set out in the Contract;
Group Company	Means a company that is a member of the same group within the meaning of section 42 of the Landlord and Tenant Act 1954;
Law	Means Act of Parliament, statutory instrument, regulation, bye-law, requirement of a competent authority, statutory body, utility company or authority, common law, directive or mandatory requirement of the European Union and standing orders for the Establishment;
Liability	Means all actions, claims, demands, costs, charges and expenses (including legal expenses on an indemnity basis);
Licence Fee	Means £1 if demanded;

Licence Period	Means the Contract Period;
Licence Expenses	Means proper and reasonable solicitors', counsels', surveyors', and other consultants' and professionals' fees and costs, bailiffs' fees and Authority's management charges including all disbursements;
Notice	Has the meaning set out in the Contract;
Outgoings	Means all present and future rates, taxes, duties, charges, assessments, impositions and outgoings (whether or not of a capital or non-recurring nature and including any of a novel nature);
Permitted Hours	Means the normal gate opening hours of the Establishment;
Permitted Use	Means use as classrooms, training facilities and associated premises solely for the provision of the Training Services;
Plan	Means the plan attached to this Licence;
Premises	Means [description of premises] on the Establishment as shown edged red on the Plan or such other premises of similar specification and no less suitable for their purpose at the Establishment as the Authority may from time to time provide or substitute;
Termination Date	Has the meaning set out in the Contract;
Title Matters	Means all rights, covenants and restrictions affecting the Premises;
Training Services	Has the meaning set out in the Contract; and

VAT Has the meaning set out in the Contract.

### **Miscellaneous**

In this Licence:

“Authority” includes any person in whom the Authority’s interest in this Licence is from time to time vested;

an obligation owed by more than one person is owed by them jointly and severally and when the Contractor is more than one person, the Authority may release or compromise the liability of any one or more of those persons or grant any time or concession to any one or more of them without affecting the liability of any other;

a reference to the Contractor includes a reference to each person comprising the Contractor;

an obligation by the Contractor or the Authority not to do something includes an obligation not to permit or allow it to be done;

a reference to a paragraph is a reference to a paragraph of this Licence;

a reference to the end of the Licence Period is to the end of the Licence Period however it ends;

a consent or approval of the Authority to be valid shall be in writing;

any notice given to the Authority to be valid shall be in writing;

any payment or other consideration to be provided to the Authority is exclusive of VAT;

any reference to a “fair proportion” is to a fair proportion as determined by the Authority acting reasonably or someone on behalf of the Authority acting reasonably;

“includes” and “including” are not to be interpreted restrictively; and

any termination of this Licence is without prejudice to any then accrued claims of any party against any other.

### **LICENCE**

The Authority permits the Contractor in common with the Authority and any Authority Party to occupy the Premises for the Permitted Use and to use the Common Parts in connection therewith subject to any limitations on the permission set out elsewhere in this Licence.

In consideration of the permission given in paragraph 2.1, the Contractor shall pay the Licence Fee to the Authority. The Licence Fee is payable without deduction, counterclaim or set-off.

The Contractor may gain access to the Premises by such routes as the Authority acting reasonably may from time to time designate, subject to its obligations in this Licence.

### **CONTRACTOR'S OBLIGATIONS**

The Contractor agrees with the Authority:

To make the payments due under paragraph 0;

If the Authority so requires, to pay the Licence Fee by banker's standing order, direct credit or automated credit;

To notify the Authority, in accordance with local orders (or via the CDO), of any faults or damage to the premises.

To pay any VAT chargeable on any sum due under this Licence at the same time as the sum on which it is charged;

Not to cause the Premises that it occupies from time to time to be left in an untidy condition and not to cause any damage to any Authority Property and to make good any damage it causes to any Authority Property;

By the end of the Licence Period:

- to remove everything the Contractor has installed and make good any damage caused in doing so;

- to cease to use and occupy the Premises;

- to leave the Premises in accordance with its obligations in this Licence;

- to give up all keys (if any) of the Premises to the Authority together with all security and/or other passes issued to the Contractor; and

- to indemnify the Authority against any loss or damage caused by any late vacation of the Premises or failure to make good any damage caused;

Not to alter or add to the Premises or any Conduits without the Authority's consent, such consent not to be unreasonably withheld or delayed;

Not, save insofar as required by law or as necessary or appropriate in the provision of the Training Services, to display any sign which is visible from outside the

Premises without the Authority's consent, such consent not to be unreasonably withheld or delayed;

Not to do anything which causes a legal nuisance or damage, loss or material inconvenience to anyone;

Not to sub-licence, charge, part with, or share the possession or occupation of, or assign the whole, or any part, of its interest in the Premises this arrangement being purely personal to the parties to it, provided that any sharing of occupation with the Authority or any Authority Party or any Group Company of the Contractor or any permitted Sub-Contractor shall not be considered a breach of this paragraph;

Within 14 days of receipt (or sooner if necessary) to produce to the Authority a certified copy of any notice, order, permission or proposal affecting the Premises, and, without delay, take all necessary steps to comply with any such notice, direction or order (notwithstanding that the same may not be enforceable against a Crown Body during a Crown Period) but only insofar as relating to the use by the Contractor of the Premises and, at the request and cost of the Authority, to make or join with the Authority in making such objections or representations in respect of it as the Authority may reasonably require;

Not to occupy and use the Premises otherwise than for the Permitted Use;

To comply with all Laws which affect the Premises, but that only insofar as relating to the use of them and/or the employment of people in them;

To pay to the Authority within 14 days of demand all reasonable Licence Expenses properly incurred, charged or payable by the Authority in connection with any application for a consent under this Licence, save where the consent is withheld in breach of the Authority's obligations under this Licence;

To pay to the Authority on demand on an indemnity basis all Licence Expenses in connection with the remedying of any breach of an obligation in this Licence by the Contractor;

To indemnify the Authority and the Crown against all Liability arising from a breach of obligation by the Contractor in this Licence in accordance with clause 44 of the Contract (Indemnities);

Not to cause any damage to the Establishment or Conduits or overload it or them;

Not to obstruct the Common Parts;

To comply with such regulations as the Authority may from time to time prescribe for the conduct, management and/or use of the Establishment, and to ensure that all employees and visitors are familiar with the same;

To comply at all times with any instructions from the Authority's Representative and any authorised staff;

To notify the Authority immediately if the Contractor ceases to occupy the Premises;

Not to apply for, or implement, any planning permission relating to the Premises;

Not to hold any auction or public exhibition or political meeting, or use the Premises for any illegal or immoral use;

Not, without the consent of the Authority (which consent may be withheld at the absolute discretion of the Authority or may be granted subject to such conditions as the Authority in its absolute discretion may impose), to use the Premises or any part thereof for any purposes that will permit members of the public to have access to the Premises;

Not to use or gain access to the Premises other than during the Permitted Hours;

To use only approved radio frequencies or other approved systems of communication which have been approved for use by the Authority and the Authority's Representative, such approval not to be unreasonably withheld or delayed, and so as not to cause any interference with the Authority's communication network;

If, in the reasonable opinion of the Authority, any electrical or other equipment or appliance used or installed on or in the Premises by the Contractor under the provisions of this Licence is likely to overload the electric or other wiring or cabling serving the Premises or cause interference to any telecommunication system, radio reception or transmission, or computer system installed by the Authority or any other Minister of the Crown or Government Department, immediately to rectify or reduce such interference to the reasonable satisfaction of the Authority, or remove the equipment or appliance in question;

To observe all regulations made by the Authority from time to time in accordance with the principles of good estate management and notified to the Contractor relating to the use of the Premises and the Establishment;

To permit the Authority or its servants and agents, for reasons of security, to search any vehicles, containers and other Premises owned by the Contractor, or in its custody or control, or belonging to or in the custody of the Contractor's servants or agents, entering or on the Establishment;

To ensure that electricity, gas, water, sewage, telecommunications, data and other services and utilities are not used improperly by the Contractor and are used responsibly for the purposes of the Contract, and the Contractor will not dispose of any oil or deleterious matter into any Conduits serving the Premises likely to cause a blockage or to exceed the capacity of such systems;

The Contractor agrees with the Authority not:

- a) to permit guns to be taken onto the Premises by the Contractor's employees workmen or contractors;
- b) without the express written consent of the Authority's Representative to take dogs (except working dogs assisting disabled staff or visitors) onto the Premises or the Establishment;
- c) affix or permit to be affixed any wireless or television aerial brackets stays or ancillary wiring on or to the exterior of the Premises until written approval has been given by the Authority and then only in accordance with any conditions he may impose;
- d) take or allow to be taken any photographs of or within the Establishment; and
- e) erect any pole or mast (whether in connection with telegraphic telephonic radio or television communication or otherwise) or other matter or thing upon the Premises.

#### **AUTHORITY'S OBLIGATIONS**

The **Services** are:

the Authority Obligations; and

any other service or amenity that the Authority may in its reasonable discretion provide or the Contractor may reasonably request for the benefit of the occupiers of the Establishment.

The Authority shall provide the Services.

The Authority is not under any obligation to insure the Establishment or the Premises.

The Authority shall pay all costs in connection with the consumption supply and removal of electricity, gas, water, sewage, fixed line telecommunications, data and other services and utilities to or from the Premises.

The Authority shall maintain the premises and undertake routine maintenance and testing of all fixed MOD facilities as required (eg, building electrical safety and legionella testing).

## 5. MISCELLANEOUS

All Notices shall:

- be given in writing;
- be in a form which can be read, copied and recorded;
- be authenticated by signature or by such other method as agreed between the Parties;
- be marked for the attention of the appropriate department or officer; and
- be marked in a prominent position with the relevant Contract number.

Notices should be delivered by:

- hand;
- first-class prepaid post (or airmail, in the case of Notices to or from overseas); or
- facsimile.

Notices shall be deemed to have been received:

- if delivered by hand, on the day of delivery if it is a Business Day and otherwise on the first Business Day immediately following the day of delivery;
- if sent by first-class prepaid post (or airmail, if appropriate), on the third Business Day (or on the tenth Business Day, in the case of airmail) after the day of posting; and
- if sent by facsimile:
  - if transmitted between 09.00 and 17:00 hours on a Business Day (recipient's time) on completion of receipt by the sender of verification of the transmission from the receiving instrument;
  - or
  - if transmitted at any other time, at 09.00 on the first Business Day (recipient's time) following the completion of receipt by the sender of verification of the transmission from the receiving instrument.

The addresses of each Party to which all Notices shall be sent are those specified in this Contract, or such other address as either Party may by written Notice

specify to the other for the purpose of clause 95 of the Contract (Service of Notices).

Where either Party requests written confirmation of any communication which does not constitute a Notice, such request shall not unreasonably be refused.

This Licence does not:

- give the Contractor any right to exclusive possession of the Premises; or
- create any relationship of landlord and tenant between the Authority and the Contractor; or
- otherwise operate, or be deemed to operate, as a demise of the Premises.

In the event that the Contractor has not in the Authority's opinion complied with its obligations in this Licence to the Authority's reasonable satisfaction up to and including the last day of the Licence Period, the Authority may retain any apportioned Licence Fee it would otherwise be due to repay to the Contractor to compensate the Authority for the non-compliance.

It is not intended that any person will be entitled to enforce any provisions of this Licence who would not have been so entitled but for the enactment of the Contracts (Rights of Third Parties) Act 1999.

The Contractor shall not have, or make, any claim against the Crown or the Authority in respect of any personal injury (including without prejudice to the generality of the foregoing injury resulting in death) or loss or damage to Premises which may be suffered by the Contractor in the exercise of the Permitted Use or any permission granted by this Licence whatever the cause of such loss damage or injury may be and whether or not the same shall have been caused by any negligent act omission or default on the part of the Authority or any officer servant or agent of the Crown.

Nothing contained in this Licence shall be construed or be deemed to have effect so as to in any way restrict or otherwise prejudicially affect any Crown privilege or exemption enjoyed by the Authority.

It is hereby agreed and declared between the parties to this Licence that the parties shall comply with their obligations under Part 13 (Security and Confidentiality) of the Contract.

Nothing in this Licence shall impose or be deemed to impose any restriction on the use of any other part of the Establishment or any neighbouring premises, provided always that the Authority shall not carry on, or permit to be carried on in any part of the Establishment or neighbouring premises, any activities which are inconsistent with the performance by the Contractor of its rights and obligations under the Contract.

**TERMINATION**

This Licence shall terminate at the earlier of the Expiry Date or the Termination Date or where the Premises are no longer required for the performance of the Contract by serving on the other party notice in writing.

Termination of this Licence under this paragraph 0 shall not affect any other right or remedy that either party may have in relation to any earlier breach of this Licence.

**COSTS**

Each party shall bear its own costs in connection with the making of this Licence.

**ENTIRE AGREEMENT AND EXCLUSION OF REPRESENTATIONS**

This Licence, together with the Contract, constitutes the entire agreement between the Parties relating to the subject matter of this Licence and supersedes all prior negotiations, representations and undertakings, whether written or oral, except that this paragraph shall not exclude liability in respect of any fraudulent misrepresentation.

In the event of any conflict between the terms of this Licence and the Contract as to the obligations of either party under the Contract, the Contract shall prevail

**GOVERNING LAW AND JURISDICTION**

This Licence shall be considered as a contract made in England and subject to English Law.

Subject to clause 90 of the Contract (Dispute Resolution) and without prejudice to the dispute resolution process set out in that clause 90, each Party hereby irrevocably submits and agrees to the exclusive jurisdiction of the Courts of England to resolve, and the laws of England to govern, any actions, proceedings, controversy or claim of whatever nature arising out of or relating to this Contract or breach.

Other jurisdictions may apply solely for the purpose of giving effect to clause 91 of the Contract (Law of the Contract and Jurisdiction) and for the enforcement of any judgement, order or award given under English jurisdiction.

**AS WITNESS** whereof this agreement has been signed by/on behalf of the Authority and the Contractor:

**SIGNED** by )  
for and on )  
behalf of the Authority )

**SIGNED** by )  
for and on )  
behalf of the Contractor )